

AMENDED IN SENATE APRIL 6, 2005

SENATE BILL

No. 995

Introduced by Senator Florez

(Principal coauthor: Senator Denham)

(Principal ~~coauthor: Assembly Member Jerome Horton~~ *coauthors:*
Assembly Members Jerome Horton and Negrete McLeod)

**(Coauthors: Senators Ducheny, Dutton, Escutia, Figueroa,
Hollingsworth, Margett, and Soto)**

(Coauthors: Assembly Members Benoit, Bermudez, Bogh, *Dymally*,
Klehs, Koretz, Plescia, Strickland, and Wyland)

February 22, 2005

An act to amend Section 17133 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 995, as amended, Florez. ~~Tax-exempt~~ *Tax-exempt* bonds for tribal nations.

The Personal Income Tax Law imposes a tax on individual taxpayers measured by the amount of the taxpayer's taxable income for the taxable year, but excludes certain items of income from the computation of tax. That law, in conformity with federal income tax laws, exempts from tax interest on bonds issued by this state or a local government in this state.

This bill would, in conformity with federal income tax laws, additionally exempt from taxation interest on bonds issued by a federally recognized Indian tribal government located in this state, but only if specified requirements are met.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17133 of the Revenue and Taxation
2 Code is amended to read:

3 17133. (a) Income which this state is prohibited from taxing
4 includes interest on bonds issued by this state or a local
5 government in this state. In addition, interest on bonds issued by
6 a federally recognized Indian tribal government located in this
7 state shall be exempt from personal income taxes to the extent
8 that the interest, at the time the bonds are issued, is excluded
9 from federal gross income under Section 103 of the Internal
10 Revenue Code, but only if all of the following requirements are
11 met:

12 (1) The tribe adopts an environmental ordinance providing for
13 the preparation, circulation, and consideration by the tribe of
14 environmental impact reports concerning potential
15 off-reservation environmental impacts of any project to be
16 commenced. The ordinance may include any ordinance adopted
17 prior to the effective date of the act adding this section. In
18 fashioning the environmental protection ordinance, the tribe shall
19 make a good faith effort to incorporate the policies and purposes
20 of the National Environmental Policy Act and the California
21 Environmental Quality Act, as set forth in Division 13
22 (commencing with Section 21000) of the Public Resources Code,
23 consistent with the tribe's governmental interests. For purposes
24 of this section "project" means an expansion or any significant
25 renovation or modification of an existing tribal facility, or any
26 significant excavation, construction, or development associated
27 with a tribal project or proposed project, and the term
28 "environmental impact reports" means any environmental
29 assessment, environmental impact report, or environmental
30 impact statement, as the case may be.

31 (2) Pursuant to the environmental ordinance, the tribe shall do
32 all of the following prior to commencement of a project:

33 (A) Inform the public of the planned project.

34 (B) Take appropriate actions to determine whether the project
35 will have any significant adverse impacts on the off-reservation
36 environment.

37 (C) For the purpose of receiving and responding to comments,
38 submit all environmental impact reports concerning the proposed

1 project to the State Clearinghouse in the Office of Planning and
2 Research and the board of supervisors in the county in which the
3 project is located, for distribution to the public.

4 (D) Consult with the board of supervisors of the county or
5 counties within which the tribe's project is located, or is to be
6 located, and, if the project is within a city, with the city council,
7 and if requested by the county board or council, as the case may
8 be, meet with them to discuss mitigation of significant adverse
9 off-reservation environmental impacts.

10 (E) Meet with and provide an opportunity for comment by
11 those members of the public residing off-reservation within the
12 vicinity of the project such as might be adversely affected.

13 (3) During the planning of a project, the tribe shall do both of
14 the following:

15 (A) Keep the county board or council, as the case may be, and
16 potentially affected members of the public apprised of the
17 projects progress.

18 (B) Make good faith efforts to mitigate any and all such
19 significant adverse off-reservation environmental impacts.

20 (4) The proceeds from the bonds may be used to pay for any
21 onsite mitigation costs, and mitigation costs for off-reservation
22 environmental impacts to the extent required by the tribe's class
23 III gaming compact with this state, associated with projects
24 funded from the proceeds from the bonds.

25 (5) Except as provided in paragraph (4), the proceeds from the
26 bonds shall be used only for projects on a tribe's reservation.

27 (b) The determination of whether a bond is issued by this state,
28 a local government in this state, or a federally recognized Indian
29 tribal government in this state shall be made without regard to (1)
30 the source of payment of that bond or the security for that bond,
31 public or private, and (2) whether or not public improvements are
32 financed.

33 (c) ~~If there is~~, at any time following the original issuance of
34 ~~that a bond~~ a bond, there is a separation in ownership between
35 the bond and any right to receive interest on the bond (whether or
36 not evidenced by a coupon), payments or accruals on that
37 stripped bond and stripped coupon shall be treated in a manner
38 consistent with Section 1286(d) of the Internal Revenue Code.

1 SEC. 2. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.

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